

DOCKET NO.: DRXI-0144  
Application No.: 10/634,335  
Office Action Dated: March 1, 2006

PATENT  
REPLY FILED UNDER EXPEDITED  
PROCEDURE PURSUANT TO  
37 CFR § 1.116

### REMARKS

Claims 1-18, 20-29, 31, and 34-36 are pending and stand rejected under 35 U.S.C. §112, first and second paragraphs. Claims 15, 26, 28, 29, and 34-36 have been amended but are within the scope that has been searched by the Examiner. Claims 37-39 have been added. Support for these claims can be found, for example, in the claims that depend, respectively, from claims 1, 9, and 16. No new matter has been added. Entry of the amendments is proper as it would put the claims in condition for allowance.

#### **Rejection under 35 U.S.C. §112, first paragraph**

Claims 1-18, 20-29, 31, and 34-36 stand rejected under 35 U.S.C. §112, first paragraph, for allegedly lacking enablement. Applicant traverses this rejection because the Examiner still has not come forward with any evidence indicating that those skilled in the art would be unable to practice the claimed inventions. Applicant's response dated November 23, 2005, analyzed the *Wands* factors and identified numerous deficiencies in the Examiner's evidentiary showing. Because those deficiencies still exist, the rejection for alleged lack of enablement is improper.

The rejection is also improper because it does not take account of differences among the claims in terms of their respective scope. The Examiner, for example, asserts that enablement is lacking for all compounds in which R<sub>1</sub> is a protective group, R<sub>2</sub> is an activated ester, a carboxylic acid, an alkyl isothiocyanate, an aromatic isothiocyanate, or a leaving group, and R<sub>3</sub>-R<sub>5</sub> are protective groups. However, a number of claims are not directed to all such compounds (*e.g.*, claims 2-6, 10-14, 17-21 and particularly claims 8, 15, and 22). Thus, the stated basis for rejection does not apply to such claims. Withdrawal of the enablement rejections and allowance of the claims is requested.

#### **Rejection under 35 U.S.C. §112, second paragraph**

Claims 1-18, 20-29, 31, and 34-36 stand rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite. The Examiner, however, identifies no evidence supporting his bare assertions that those skilled in the art would not be able to determine whether a compound or method of interest falls within the scope of Applicant's claims. *In re*

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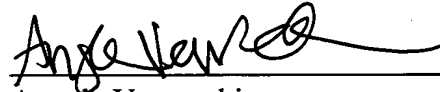
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*Mercier*, 185 U.S.P.Q. 774 (C.C.P.A. 1975) (claims sufficiently define an invention so long as one skilled in the art can determine what subject matter is or is not within the scope of the claims). In an effort to advance prosecution, method claims 26, 28, 29, and 34-36 have also been amended to even more clearly describe Applicant's invention. Support for these amendments can be found at, for example, pages 19-20 of the specification.

### **Conclusion**

Applicants submit that the pending claims are in condition for allowance. An early indication of allowance is, therefore, respectfully requested.

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